

**TOWN OF BIG FLATS PLANNING BOARD  
MINUTES OF AUGUST 12, 2003**

6:30 P.M.  
REGULAR MEETING  
Conference Room "A"

Present:

Chair - Mark Fleisher  
Angela Piersimoni  
Lee Younge  
Scott Esty  
Carl Masler  
Lee McDonald

Absent - James Ormiston

Guests: Dr. Sheikh Qadeer  
Staff: Chuck Coons

**AGENDA**

The Board agreed to proceed with the agenda as presented by the Executive Committee.

**MINUTES**

McDonald made a motion to accept and approve the minutes of July 22, 2003, seconded by Piersimoni. All in favor, motion carried.

**TOWN OF BIG FLATS *SUBDIVISION*  
PRELIMINARY PLAT  
TAX PARCEL #67.01-1-12**

Fleisher described and reviewed the proposed resolution to confirm the subsequent Public Hearing on the *Subdivision* Preliminary Plat *application*. Fleisher asked for questions and comments. There being none, he asked for a resolution.

**RESOLUTION P119-2003  
TOWN OF BIG FLATS *SUBDIVISION*  
PRELIMINARY PLAT  
TAX PARCEL #67.01-1-12**

Resolution by: Younge  
Seconded by: Esty

WHEREAS the Planning Board has received an *application* from Town of Big Flats, owner of tax *parcel* #67.01-1-12, for the *subdivision* approval of this 61-acres *parcel* to create two *parcels*:

- *Parcel A* being a 1.006-acres *parcel*, and
- *Parcel B* being the remainder of the acreage;

AND WHEREAS the *property* is vacant land located in Residential 1 (R1) and the Business Non-retail (BNR) *districts*, approximately 300 feet from Harris Hill Road;

AND WHEREAS the *Bulk and Density* Control Schedule requires 35,000 square feet and 100-foot *lot* width for a residential *lot* in an R1 *district* without public water or sewer, and the proposed 1.006 acre *parcel* meets the minimum requirements;

AND WHEREAS the remaining *parcel* will not be landlocked due to additional access to County Route 64 to the east near Welles Bridge;

AND WHEREAS this Board has set a Public Hearing for August 12, 2003;

THEREFORE BE IT RESOLVED that this Board confirms the Public Hearing on this *subdivision* preliminary plat.

CARRIED: AYES: Younge, Esty, Fleisher, Masler, McDonald, Piersimoni

NAYS: None

ABSTAIN: None

ABSENT: Ormiston

## **PUBLIC HEARING**

### **6:30 P.M. TOWN OF BIG FLATS SUBDIVISION PRELIMINARY PLAT TAX PARCEL #67.01-1-12**

Chairman Fleisher called the Public Hearing to order at 6:35 P.M. He noted that the Public Hearing was duly published in the Elmira Star-Gazette and went on to describe the location, features, and purpose of this proposed *subdivision*. He further stated that the purpose of the Public Hearing was to receive public comments on the *application* that is the subject of this Public Hearing. Fleisher asked for comments from those present who wished to speak:

IN FAVOR: None

AGAINST: None

COMMENTS: None

Fleisher closed the Public Hearing at 6:38 P.M. and reconvened the business portion of regular meeting.

### **TOWN OF BIG FLATS SUBDIVISION PRELIMINARY AND FINAL PLAT TAX PARCEL #67.01-1-12**

In reviewing this proposed resolution, Fleisher explained that if adopted it would approve the *Subdivision* Preliminary Plat, and to accept that Preliminary Plat as the final *subdivision* Plat. He asked for questions or comments. There being none, he asked for a resolution.

### **RESOLUTION P120-2003 TOWN OF BIG FLATS SUBDIVISION PRELIMINARY AND FINAL PLAT TAX PARCEL #67.01-1-12**

Resolution by: McDonald

Seconded by: Masler

WHEREAS the Planning Board has received an *application* from Town of Big Flats, owner of tax *parcel* #67.01-1-12, for the *subdivision* approval of this 61-acres *parcel* to create two *parcels*:

- *Parcel A* being a 1.006-acres *parcel*, and
- *Parcel B* being the remainder of the acreage;

AND WHEREAS the *property* is vacant land located in Residential 1 (R1) and the Business Non-retail (BNR) *districts*, approximately 300 feet from Harris Hill Road;

AND WHEREAS the *Bulk* and *Density* Control Schedule requires 35,000 square feet and 100-foot *lot* width for a residential *lot* in an R1 *district* without public water or sewer, and the proposed 1.006 acre *parcel* meets the minimum requirements;

AND WHEREAS the remaining *parcel* will not be landlocked due to additional access to County Route 64 to the east near Welles Bridge;

THEREFORE BE IT RESOLVED that this Board approves the Preliminary *Subdivision* Plat and accepts the Preliminary Plat as a Final *Subdivision* Plat;

AND FURTHER RESOLVED that the final subdivision plat is approved.

CARRIED: AYES: Piersimoni, McDonald, Masler, Fleisher, Esty, Younge

NAYS: None

ABSTAIN: None

ABSENT: Ormiston

#### **REYNOLDS SUBDIVISION**

#### **PRELIMINARY PLAT**

#### **TAX PARCEL #47.00-1-33.21**

Fleisher reviewed with the Board the resolution as proposed by the Executive Committee. He described the *subdivision* and explained the purpose of dividing the *property*. He noted that the *applicant* had provided a revised map from Weiler Associates for the Board's review. Being no questions or comments, Fleisher asked for a resolution. The State Environmental Quality Review Form of SEQRA was reviewed and completed and a Negative Declaration was declared and a Public Hearing was set for September 25, 2003.

#### **RESOLUTION P121-2003**

#### **REYNOLDS SUBDIVISION**

#### **PRELIMINARY PLAT**

#### **TAX PARCEL #47.00-1-33.21**

Resolution by: Esty

Seconded by: McDonald

WHEREAS the Planning Board has received an *application* from Steven and Susan Reynolds, *owners* of a 38.78-acres *parcel* #47.00-1-33.21 located at 107 Upson Road to subdivide the *property* into three *parcels* as shown on a map by Weiler Associates, dated October 6, 1995, revised October 30, 1995, revised April 30, 1998 and August 5, 2003.

- *parcel A-1* being 5.610 acres, *parcel* that is vacant land; and
- *parcel B-1* is approximately 15.595 acres which presently contains a single-*dwelling unit*,

located at 107 Upson Road; and

- *parcel D* is 17.57 acres vacant land;
- *parcel C* as shown on map is not a part of this *subdivision*.

AND WHEREAS the proposed *subdivision* is located on Upson Road near Chambers Road in the Rural *District* (RU);

AND WHEREAS Chapter 17.16 of the Town Municipal Code (*Bulk* and *Density* Control Schedule) requires a minimum of a three-acre *parcel* for a single-family residential *lot* without public water or sewer;

AND WHEREAS the adjoining *property owners* have been notified in accordance with the rules of the Planning Board.

THEREFORE BE IT RESOLVED that this Board accepts the documentation in this *application* as a Preliminary Plat in accordance with Title 16 of the Town Municipal Code;

AND FURTHER RESOLVED that for environmental review this Board finds action on this *application* to be an Unlisted Action in accordance with 6NYCRR 617.3 and that this Board is the Lead Agency completing an uncoordinated review with informational notice of this *application* given to the Chemung County Health Department and the Chemung County Planning Board;

AND FURTHER RESOLVED that based on the review of the Short Environmental Assessment Form of SEQRA completed by the *applicant* and this Board, this Board finds no significant potential adverse environmental impact and therefore issues a Negative Declaration;

AND FURTHER RESOLVED that a Public Hearing is required for the Preliminary Plat of a proposed *subdivision* and this Board sets a Public Hearing on the Preliminary Plat for September 25, 2003 at 6:30 p.m. or soon thereafter as practical.

CARRIED: AYES: Younge, Esty, Fleisher, Masler, McDonald, Piersimoni

NAYS: None

ABSTAIN: None

ABSENT: Ormiston

**DESIWORLD GROCERY STORE  
SITE PLAN PRELIMINARY PLAN  
TAX PARCEL NO.: 66.04-1-11**

Fleisher reviewed with the Board the actions taken on this *site plan application* to date. It was noted that the *applicant* had provided all of the documentation required in Resolution P113-2003. However, due to the complexity of this *application*, two proposed resolutions were presented to the Board.

Fleisher asked Dr. Sheikh Qadeer, applicant and owner of the proposed Desiworld Grocery Store, if he would like to comment concerning his *site plan application*. Dr. Qadeer asked why this *application* has been regarded as inappropriately located by the new administration after he was led to believe for two years that it was acceptable. He asked that the Board consider the benefit his specialty store would have in the community.

Chuck Coons, Director of Building and Codes, stated that the proposed plan is in violation and that there are very few ways to mitigate the corrections needed.

The following are considerations that were reviewed with the *applicant* to determine a reasonable decision.

- The ingress and egress to the proposed grocery store has been determined to be inadequate for vehicle and pedestrian traffic. Younge stated that she visited the site and that she personally experienced the ingress and egress and believes the traffic pattern would present a potential hazardous situation. Dr. Qadeer offered to use his professional office *parking areas* as a turn-around and that he does not expect his businesses to generate a significant amount of traffic. Fleisher commented that the ingress and egress cannot be evaluated on the assumption that there will not be traffic. You don't put a business in not to have business.
- The 13-foot distance between the two principal *structures* is not adequate and presents a hazardous situation in the event of an emergency. Dr. Qadeer offered to install a drive on the right side of the lot. Coons replied that the distance is only eight feet making it unacceptable by code and that the records show that the *applicant* had previously received a denial for a *drive* on that side of the house, and a curb cut was denied by the highway department due to drainage concerns.
- Buffer/barrier options were discussed. The size of the *lot* offers limited options.
- Esty asked if a *building permit* was ever issued. Coons replied that a *building permit* for an addition to the garage had been issued and approved. The *building* could be used for another purpose as long as the purposed *use* complies with the Town Municipal Code.
- Esty expressed his concern about setting precedence for other residents to establish businesses without submitting a *site plan* review and that an *application* for a grocery store was not previously submitted for *approval*.
- Younge asked if presently anyone lives in the single-family *dwelling* on the *parcel*. Dr. Qadeer replied that no one lives in the single-family *dwelling* at this time. Coons commented that even though no one lives there the dwelling still requires the *parking areas*. Dr. Qadeer added that his professional office also located on the *lot* is only open a couple afternoons a week. Coons commented that the *application* doesn't fit the parcel so if the intent is to deny the *application* with conditions he suggests that the Board consult with the Attorney for the Town.
- McDonald questioned as to whether the Board can extend this condition without approval of the site plan. Coons replied it would have to be a conditional approval, example: a possible condition would be that the turnaround be marked.
- Several timeframes were discussed to allow Dr. Qadeer time to relocate the store. It was agreed that the Attorney for the Town be asked to review any mitigation plan and possible liabilities associated with allowing a timeframe. Fleisher explained that the *applicant* would need to request mitigation of any pending issues.

Fleisher asked the Board to review the options and base its findings on the fact that the *application* is incomplete due to the requirements for ingress, egress, *parking areas* and the *buffer/barrier* issues. Coons commented that the intent of option 2 is to deny the application but to consider a condition of denial.

**RESOLUTION P122 -2003  
DESIWORLD GROCERY STORE  
SITE PLAN PRELIMINARY PLAN  
TAX PARCEL NO.: 66.04-1-11**

Resolution by: Younge

Seconded by: Esty

WHEREAS this Board has received an *application* from Dr. Sheikh Qadeer for *site plan* approval for a *retail* specialty food store to be located at 61 Canal Street;

AND WHEREAS the *property* is located in the Town Center (TC) *district* and *retail* sales is an allowable *use* by *site plan* approval;

AND WHEREAS there presently exists a house and an *accessory structure* on the *property* of which the house has a doctor's office within it and the *accessory structure* is proposed to accommodate the *retail use*;

AND WHEREAS the *property* has a single *driveway* entrance from Canal Street, presently with *parking* in the front and the rear;

AND WHEREAS that for environmental review pursuant to 6NYCRR, part 617, this Board has determined this action to be an Unlisted Action in accordance with 6NYCRR part 617 and intends to be the Lead Agency completing an uncoordinated review, in accordance with 6NYCRR 617.6b, with notification sent to the following Interested Agencies:

- o Chemung County Planning Board,
- o Chemung County Health Department
- o Big Flats Public Works,
- o Big Flats Fire Department.

AND WHEREAS the *applicant* has submitted additional documentation as required in Resolution P113-2003 as follows:

- Revised site and parking plan,
- Letter dated August 4, 2003, describing proposed *signs* and *use* of existing exterior lighting;

AND WHEREAS the parking requirements for the combined *uses* as required in Chapter 17.48.010(D)(1) of the Town Municipal Code are as follows:

- One-unit dwelling - 2 *parking areas*
- Professional office use – 2 ½ *parking areas*
- *Retail* use 3 ½ *parking areas*

AND WHEREAS action on the *application site plan* review and *approval* was tabled in Planning Board Resolution P113-2003.

THEREFORE BE IT RESOLVED this Board makes the following findings on the requirements of Chapter 17.32.090(C):

1. Adequacy and arrangement of vehicular traffic, including public transportation and bicycle access and circulation, including on-site circulation.
  - The minimum width of a single combined entrance/exit *drive* shall be not less than 20 feet, per Chapter 12.12.060. The existing *drive* width is 13 feet, making ingress and egress of traffic a potentially dangerous situation due to the narrow width. Vehicles meeting in opposite directions in the *drive* would require that one of the vehicles back up to permit the other vehicle to pass.
2. Location, arrangement, appearance and sufficiency of off-*road* vehicular parking and loading.
  - Eight *parking areas* are required for the combined three *uses*. The submitted documents show six spaces.
3. Adequacy of pedestrian access, circulation, convenience and safety.
  - Sidewalks are available at street side and the entrances to the businesses on site are by paved surfaces.

4. Location, arrangement, size and design of *building*, *outdoor lighting* and *signs*.
  - The deck of the existing single-family *dwelling* and the *structure* of the proposed use are 12.5 feet apart. This area is the only access *drive* to the rear *parking lot*. Lighting is adequate for the site, and the proposed signage complies with the code.
5. Relationship of the various *uses* on the project site to one another and their scale.
  - The three *uses* do not appear to have any relationship to each other.
6. Adequacy of a *buffer* and *barrier* between adjacent *uses* and adjoining *lots*.
  - Due to the width of the *lot* (49.5 feet) and the fact that the *buildings* exist, protection of a buffer zone is not afforded to adjacent *properties* by this proposed *use*.
7. Adequacy of any storm water management system.
  - Documentation has not been presented on this project. As much of the *parking area* is gravel, there appears to be adequate pervious surface. However, any additional impervious surface could have a potentially adverse effect on the drainage of storm water on site.
8. Adequacy of *structures*, *roads*, *drives*, *internal drives*, *driveways* and *buffers* in areas susceptible to flooding, ponding and/or erosion.
  - Not applicable. Not a flood prone area.
9. Adequacy of flood damage prevention measures consistent with Chapter 17.24.
  - Not applicable. Not a flood prone area.
10. Compatibility of *development* with natural features of the site and with surrounding land *uses*.
  - Surrounding uses are residential and business uses.
11. Adequacy of open space for play area, recreation and natural area such as wildlife habitat, wetland and wooded area.
  - Not applicable.
12. Adequacy of orientation of a *structure* and the site design for energy efficiency, the extent to which the proposed plan conserves energy and energy resources in the community, and the protection of adequate sunlight for a *solar energy system*.
  - Not applicable.
13. Adequacy of fire protection water supply and site design to accommodate emergency vehicle access.
  - Public water source is available for fire fighting purposes. Emergency vehicle access is limited due to the width of the existing *drive*. (See #1 above)
14. Consistency of *building* design, scale, mass, and site location with surrounding *development* and *district* intent.
  - The three *uses* on the *lot* are not consistent with one another. The *lot* is narrow in width creating a crowded condition on the *lot* from such *uses* and the compounding impacts associated therein. This is not consistent with the other *uses* in the surrounding area and/or *district*.
15. Any other relevant matter.
  - No additional matters considered.

AND FURTHER RESOLVED that based on the above referenced findings, this Board determines that the proposed *use* is not consistent with the intent of the district, does not provide adequate vehicular access to the *property*, does not provide a *buffer* to the adjacent residential properties and the existing layout of the *buildings* creates a crowded condition on the *lot*;

AND FURTHER RESOLVED that the *site plan application* to use the existing *building* for a *retail* store is hereby denied.

AND FURTHER RESOLVED that any *uses* or activities existing on the *lot* in violation of this denial shall cease and desist by February 12, 2004.

AND FURTHER RESOLVED that this decision be referred to the Attorney for the Town as to the legality of the six-month timetable and be acted on with his written approval. If the Attorney for the Town finds that attaching a timetable to the denial is not permitted, enforcement of immediate cease and desist order shall commence.

CARRIED: AYES: Younge, Esty, Masler, McDonald

NAYS: Fleisher,

ABSTAIN: Piersimoni

ABSENT: Ormiston

## **PLANNING BOARD MEETING RESCHEDULED**

Fleisher read the proposed resolution and there were no objection to the rescheduling of the September 23, 2003 meeting.

## **RESOLUTION P123-2003 PLANNING BOARD MEETING RESCHEDULED**

Resolution by: McDonald

Seconded By: Esty

WHEREAS the regular Planning Board meeting is scheduled for September 23, 2003;

THEREFORE BE IT RESOLVED that the September 23, 2003 regular Planning Board Meeting will be rescheduled to be held at 6:30 p.m. on September 25, 2003 in the Conference Room "A" of the Big Flats Town Hall.

CARRIED: AYES: Piersimoni, McDonald, Masler, Fleisher, Esty, Younge

NAYS: None

ABSTAIN: None

ABSENT: Ormiston

## **MEMBERS COMMENTS**

- Younge commented that she will not be present at the September 2, 2003 Planning Board Meeting.
- The Board discussed the Morroni Plantscape application and agreed that Coons will contact the Attorney for the Town to draft a letter to Terry Morroni to consent to un-tabling of the application in order to proceed with the finalization of his application.
- The Agricultural Society has asked Morroni to become a special agricultural district. The Board discussed the differences between the proposed site plan versus agricultural district uses.
- The Davenport Forest & Oakfield Neighborhood Assoc., Inc. has expressed that it is in the process of composing a letter to submit conditions that they would like the Planning Board and Mr. Morroni to consider.

Meeting adjourned at 8:25 P.M.

Respectfully Submitted

Nancy Van Maarseveen

Planning Board Secretary